



M.O.E. Policy Manual

POLICY TITLE PRE-SUBMISSION CONSULTATION IN THE EA PROCESS

NO.
03-03-01

Legislative Authority

The Environmental Assessment Act

Statement of Principles

The process of consulting with affected parties before submitting the EA is essential to carrying out good planning required by the EA Act.

Pre-submission consultation (PSC) is not a separate procedure conducted parallel to or after a planning process. The input of affected parties is an integral part of the planning process and begins at the earliest possible stages.

All parties are responsible for participating in an open, forthright and cooperative manner and for providing the information required for meaningful consultation to take place. The proponent, as initiator, has the prime responsibility for establishing a cooperative atmosphere by respecting the needs of affected parties to be adequately informed, to question and to be listened to. Affected parties have the responsibility to share in a cooperative search for the best solution.

Definitions

'The proponent' is the organization responsible for the planning and implementation of the undertaking.

'Affected parties' are any members of the public or public interest groups with an interest in the undertaking as well as government reviewers and the EA Adviser.

Point of Contact

Director, Environmental Assessment Branch

Effective Date

November 12, 1987

'The EA Adviser' is normally the Environmental Planner from the Environmental Assessment Branch who advises proponents and affected parties on PSC and EA Act requirements.

Introduction

This policy is designed to ensure that proponents consult with affected parties before the EA is formally submitted. Pre-Submission Consultation (PSC) is not a legislative requirement.

Files on projects in Pre-Submission Consultation are maintained at the EA Branch offices in Toronto and are available for any affected party to review upon request. The EA Branch files contain all information received by the Branch from any participant in PSC. Certain information may also be reviewed at the local District or Regional Office of the Ministry.

In this context, consultation means to identify affected parties, to provide them with information as required, to present and explain proposed planning activities and decisions to them, to seek their comments, and to make any necessary modifications to accommodate their concerns before proceeding.

Before incorporating PSC in a planning process, a proponent should review the accompanying 'Guidelines for Pre-Submission Consultation in the EA Process', which describe consultation principles and techniques consistent with PSC policy.

1. Policy Objectives

- i) To assist the proponent in carrying out planning and in documenting that planning to meet EA Act requirements.
- ii) To assist the proponent in designing appropriate methodologies for assessing environmental impacts.
- iii) To identify approvals, licences, and permits required.
- iv) To identify alternatives for the proponent to consider.
- v) To improve the understanding of environmental concerns before the undertaking is selected.
- vi) To address factual questions.
- vii) To direct the proponent to further sources of expertise and information.
- viii) To encourage the proponent to identify and resolve issues to the extent possible before an EA is formally submitted.

- ix) To focus the proponent's planning on matters of concern.
- x) To reduce the time involved in the formal approvals process.
- xi) To promote mutually acceptable, environmentally sound solutions by developing positive relationships among those involved in consultation.
- xii) To allow proponents to test the undertaking and the planning process before seeking approval.

2. Proponent's Responsibilities

The proponent is responsible for initiating and carrying out PSC in a manner which fosters cooperation. The proponent proposes the design and implementation of the study process and content of the EA. Any affected party can challenge these proposals.

The proponent documents the concerns raised by affected parties including the EA Adviser and explains how these concerns have been addressed in planning. This information constitutes part of the EA Submission to the Minister of the Environment.

2.1 Involving Parties in PSC

The proponent is responsible for ensuring that PSC is open to all potentially affected government agencies and to all other organizations, groups, or individuals who may be affected or interested. The proponent makes every reasonable effort at the outset of the study and at key stages throughout the planning to inform potential parties of the nature of the study, and of how they may participate in the process.

Thereafter, the proponent can focus on those parties who have indicated an interest or concern. However, the proponent ensures that new parties can become involved at later stages in the study when additional matters or more detailed sources of information are being considered.

2.2 Sharing of Information

The proponent is responsible for responding to information requests in an open, forthright and helpful manner and for providing affected parties and the EA Advisor with adequate time to review material.

The proponent ensures that parties can become aware of perspectives other than their own. This sharing of views may lead to changes in the proponent's plans or in the views of the parties.

2.3 Identifying Key Issues

The proponent focuses on identifying the significant environmental issues and deals with them in more detail than the issues with less environmental significance. However, to ensure that the significant issues are identified, the proponent does not narrow the focus prematurely.

2.4 Early Notification and Involvement

The proponent commences PSC at the early stages of planning. This is before decisions have been made on which alternatives will be evaluated and on how the evaluation will be carried out. PSC starts when the proponent has a reasonable idea of a problem or opportunity requiring attention and long before making irreversible decisions or commitments of resources for a particular solution.

Proponents seek input on the:

- i) proposed sequence of decision stages
- ii) adequacy of the data base
- iii) the alternatives to evaluate
- iv) methods for assessing the alternatives, including design of impact prediction studies
- v) predicted environmental effects
- vi) proposed mitigation measures
- vii) evaluation of alternatives and proposed decisions
- viii) undertaking and its purpose
- ix) reports which document the above.

2.5 Flexibility

The proponent keeps sufficient flexibility in planning to reconsider previous decisions and does not narrow the focus prematurely. Planning methods are selected that keep as many alternatives open as long as possible, so that if a previously selected alternative proves unacceptable the proponent can study others.

2.6 Conflict Resolution

PSC, when it does not remove all conflicts, resolves those issues amenable to resolution and highlights the important differences that remain to be resolved. The approvals process can then focus on these unresolved concerns.

2.7 EA Documentation

The proponent in the EA summarizes the PSC process in a manner which can be understood by the non-specialist, describing who participated, the issues resolved and how, and the issues that remain unresolved.

2.8 Draft EA

The proponent circulates a draft EA to affected parties and the EA Adviser to identify and resolve to the extent possible all concerns. The proponent may circulate successive improved versions of the draft EA until it is satisfied that issue resolution in PSC is complete.

The EA documentation is finalized based on this review and formally submitted to the Minister of the Environment.

3. Responsibilities of Affected Parties

All affected parties are responsible for providing timely comments in an open, forthright, and helpful manner, for considering the views of others, and for fostering cooperation.

Comments made during the formal approvals process should be consistent with those given earlier in PSC unless sound reasons exist for the change of position. Such comments identify significant environmental concerns, explain their significance, and suggest measures to address the concerns.

Continuity in the participation of affected parties allows the proponent and those involved in the approvals process to be fully aware of any positions taken at PSC.

Based on their mandates, Ontario government ministries and agencies provide comments to the proponent during PSC on the merits of the proposed undertaking, its purpose, and its alternatives. In particular, they comment on the adequacy of the description of the environment affected, any alternatives neglected, the predictions of environmental effects and the mitigation measures proposed, and the evaluation of the alternatives.

At the request of the proponent, government ministries and agencies provide comments on the extent to which draft EA documentation addresses their mandate concerns.

Copies of any written comments made in PSC should be provided to the EA Adviser. These comments will be placed in the EA Branch files where they are available to any affected party upon request.

4. Responsibilities of the EA Adviser

When the proponent advises the Ministry of the Environment of a project that may result in an EA, an EA Adviser normally from the EA Branch, is designated as the proponent's contact person. The same EA Adviser usually becomes the Review Coordinator of the formal EA submission.

The EA Adviser:

- i) advises the proponent on how to carry out an EA planning process which meets EA Act requirements.
- ii) helps the proponent identify the government ministries and agencies, organizations, and individuals that should have an opportunity to participate in PSC.
- iii) assists proponents and affected parties in understanding the requirements of the EA Act and PSC.
- iv) acts as a facilitator during PSC at the request of affected parties or the proponent. The Adviser plays this role only with the consent of all those involved and only where such involvement is not likely to compromise the Adviser's role in the formal approvals process.
- v) provides comments to the proponent in an open, forthright, helpful, and timely manner. Comments during the formal approvals process are consistent with those given in PSC unless sound reasons can be given for the change of position.
- vi) at the request of the proponent, comments on the extent to which draft documentation of the planning process is consistent with the requirements of Section 5(3) of the EA Act. The Adviser also provides advice on how to improve the planning and the EA documentation if deficiencies are found.

03-03-07

Comments and suggestions for improvements to this policy are welcome and should be sent to the Director, Environmental Assessment Branch, Ministry of the Environment. The Ministry of the Environment has established an Environmental Assessment Improvement Project (EAPIP). All comments which are received will be forwarded to EAPIP for consideration as part of the Program Improvement Project.